

REMARKS

In the above-referenced Office Action the Examiner objected to the drawings, stating "The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description: impact surface '32'. Corrected drawing sheets are required in reply to the Office Action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled 'Replacement Sheet' in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the Examiner, the applicant will be notified and informed of any required corrective Action in the next Office Action. The objection to the drawings will not be held in abeyance." Applicant is submitting herewith proposed corrections for the Examiner's approval.

Claim 8 was rejected by the Examiner under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In support of this rejection, the Examiner stated, "Claim 8 recites the limitation

'said plate' in line 3. There is insufficient antecedent basis for this limitation in the claim."

Claim 8 has been amended to provide support for the claimed limitation and the Examiner is respectfully requested to withdraw her rejection of Claim 8 under 35 U.S.C. 112, second paragraph.

Now turning to the more substantive issues the Examiner rejected Claims 1-5, 9, 14-17 under 35 U.S.C. 102(e) as being anticipated by Ubbink (VSPN 5,029,651). She stated, "In reference to claim 1-5, 9, 14-17, Ubbink discloses a driver (2), the driver (2) comprising: a body portion in the form of pipe (6) having an elongated cavity for receiving an elongated object (4), the pipe being welded to an impact member having an upper surface (28) of a greater area than a lower surface (29) forming a blind end of the elongated cavity (6); and two elongated handles (30) attached to the impact member and longitudinally spaced from the pipe (6)."

Claim 1 has been amended to now specifically recite "...said impact member being generally rectangular shaped and having a length greater than a width thereof...". This advantageous limitation is clearly not taught or suggested by the cited reference. Because claims 2-5, 9 and 14-17 find their dependency back to Claim 1 they should also be allowable. Therefore, the Examiner is respectfully requested to withdraw

her rejection of claims 1-5, 9 and 14-17 under 35 U.S.C. 102(e) as being anticipated by Ubbink (VSPN 5,029,651).

The Examiner further rejected Claims 6-8, 10, 11, and 18-21 under 35 U.S.C. 103(a) as being unpatentable over Ubbink (VSPN 5,029,651). To support her rejection, the Examiner stated, "Regarding claims 6-8, 10, 11, and 18-21, Ubbink discloses a driver having a body in the form of a pipe (6), an impact member (28), and a pair of handles gusset welded (figure 6) to the body, but does not disclose the handles welded to the impact member. It would have been an obvious matter of design choice to weld the handles to the impact member, since applicant has not disclosed that handles being welded to the impact member as solve any stated problem or is for any particular purpose and it appears that the invention would perform equally well with handles welded to the body of the driver, as suggested by Applicant (page 9, lines 19-20) and disclosed by Vbbink."

Additionally the Examiner rejected Claim 12 under 35 U.S.C. 103(a) as being unpatentable over Ubbink (VSPN 5,029,651) as applied to claim 10 above, and further in view of Deike (VSPN 3,735,822). She stated, "With respect to claim 12 and its limitations as stated above, Ubbink discloses a driver (2) having elongated handles (30) but does not disclose elongated handles (30) with hand grips. Deike teaches a driver having elongated handles (67, 70) with hand grips (71, 72). It would

have been obvious to one having ordinary skill in the art at the time the invention was made to modify the handles of the driver of Ubbink to include the hand grips of Deike for the purpose of improving once grasp on the handles of the driver during operation (Deike-column 6, lines 8-10)."

Finally, Claim 13 was rejected, by the Examiner, under 35 U.S.C. 103(a) as being unpatentable over Ubbink (VSPN 5,029,651) in view of Amicangelo (VSPN 6,364,031). She stated, "Ubbink discloses a driver (2) having a pipe body (6) for inserting an elongated object (4,8) into the earth (figures 7) but does not disclose any means for removing earth from the pipe (6). Amicangelo teaches a driver (10) having a pipe body (40) and an impact member (42, 44), with a slot (46) in the pipe (40) and remote from the impact member (42,44). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the driver of Ubbink to include the slot of Amicangelo the purpose of facilitating the removal of an elongated article that has been driven into the earth (Amicangelo-column 6, lines 33)."

These rejection are believed to be rendered moot by the above amendment to Claim 1 and the remarks advanced supra.

It is respectfully submitted that Calims 1-21 are now in condition for allowance and such allowance by the Examiner is respectfully requested.

In the event the Examiner has further difficulties with the allowance of the application, she is invited to contact the undersigned attorney by telephone at (412) 380-0725 to resolve any remaining questions or issues by interview and/or by Examiner's amendment as to any matter that will expedite the completion of the prosecution of the application.

Respectfully submitted,

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